

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
4 State Bar No. 141461
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11 ~~JAMIE~~
JAMIE HUMBERTO GALAVIZ
12 **1325 Laurel Street, Apt. 2**
Menlo Park, CA 94025
13 **Occupational Therapy Assistant Certificate**
No. OTA 1799

Case No. OT 2008-107

A C C U S A T I O N

14 Respondent.
15

16
17 Complainant alleges:

18 **PARTIES**

19 1. Heather Martin (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the California Board of Occupational Therapy, Department of Consumer
21 Affairs.

22 2. On or about June 30, 2008, the California Board of Occupational Therapy issued
23 Occupational Therapy Assistant Certificate Number OTA 1799 to ~~JAMIE~~ Jamie Humberto Galaviz
24 (Respondent). The Occupational Therapy Assistant Certificate was in full force and effect at all
25 times relevant to the charges brought herein and will expire on December 31, 2010, unless
26 renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the California Board of Occupational Therapy

(Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTES AND REGULATIONS

4. Section **2570.27** of the Code states:

(a) The board may discipline a licensee by any or a combination of the following methods:

(1) Placing the license on probation with terms and conditions.

(2) Suspending the license and the right to practice occupational therapy for a period not to exceed one year.

(3) Revoking the license.

(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(5) Taking other action as the board, in its discretion, deems proper.

(b) The board may issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any provision of this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure."

5. Section **2570.28** of the Code states, in pertinent part:

The board may deny or discipline a licensee for any of the following:

(a) Unprofessional conduct

...

(e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.

...

6. Section **2570.29** of the Code states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

(b) Use to an extent or in a manner dangerous or injurious to himself or herself, to any other person, or to the public, or that impairs his or her ability to conduct with safety to the public the practice authorized by his or her license, of any of the following:

(1) A controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(2) A dangerous drug or dangerous device as defined in Section 4022.

(3) Alcoholic beverages.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

...

7. Section **2570.30** of the Code states:

The board shall retain jurisdiction to proceed with any investigation, action or disciplinary proceeding against a license, or to render a decision suspending or revoking a license, regardless of the expiration, lapse, or suspension of the license by operation of law, by order or decision of the board or a court of law, or by the voluntary surrender of a license by the licensee.

8. California Code of Regulations, Title 16, section **4170**, states, in pertinent part:

A violation of any ethical standard of practice constitutes grounds for disciplinary action. Every person who holds a license, certificate or limited permit issued by the board shall comply with the following ethical standards of practice:

...

(e) Occupational therapy practitioners shall comply with the Occupational Therapy Practice Act, the California Code of Regulations, and all other related local, state, and federal laws.

...

COST RECOVERY

9. Section **125.3** of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Criminal Conviction)

5 10. Respondent is subject to disciplinary action under section 2570.28(e) of the Code and
6 under California Code of Regulations, Title 16, section 4170(e), in that he was convicted of a
7 crime substantially related to the qualifications, functions, or duties of a licensee. The
8 circumstances are as follows:

9 11. On or about January 20, 2009, in San Mateo Superior Court case number
10 SM360375A, Respondent was convicted of having violated California Vehicle Code section
11 23152(b) (driving with excessive blood alcohol level).

12 **SECOND CAUSE FOR DISCIPLINE**

13 (Conviction of Alcohol-Related Offense)

14 12. Respondent is subject to disciplinary action under sections 2570.28(a) and 2570.29(c)
15 of the Code in that he was convicted of a criminal offense involving the prescription,
16 consumption, or self-administration of alcohol, as set forth above in paragraph 11.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Dangerous Use of Alcohol)

19 13. Respondent is subject to disciplinary action under section 2570.29(b) of the Code in
20 that he used alcohol in a manner dangerous or injurious to himself, to any other person, or to the
21 public, or that impaired his ability to conduct with safety to the public the practice authorized by
22 his license, as follows:

23 14. On or about October 26, 2008, in San Mateo, California, Respondent was found to be
24 driving a vehicle in an erratic fashion. Respondent was subsequently determined to have a blood
25 alcohol level of .18%, in violation of the law. This conduct resulted in the conviction set forth
26 above in paragraph 11.

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

16. On or about October 13, 1992, in Fresno Superior Court case number 469967-4, Respondent was convicted of having violated California Vehicle Code section 23552(a)/23175 (driving while under the influence of alcohol, with three or more prior convictions for driving under the influence of alcohol within seven years).

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Occupational Therapy issue a decision:

2. Ordering ~~Jamie~~ Humberto Galaviz to pay the California Board of Occupational Therapy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

DATED: February 24, 2010 Heather Martin
HEATHER MARTIN
F. O. O. S.

5

Accusation